

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MARKAL CLARK,
Plaintiff,

v.

WELLS FARGO BANK N.A.,
Defendant.

Civil Action File No.
1:09-CV-02742-CAP-GGB

DEFENDANT'S MOTION TO DISMISS

COMES NOW Wells Fargo Bank, N.A., by special appearance and by and through its undersigned counsel, and moves this Court to dismiss Plaintiff's claims for breach of fiduciary duty, unjust enrichment, quiet title and for violations of the following federal statutes: The Home Ownership Equity Protection Act, 15 U.S.C. § 1639, *et seq.*; the Real Estate Settlement Procedures Act, 12 U.S.C. §§ 2601 *et seq.*; Truth in Lending Act, 15 U.S.C. §§ 1601 *et seq.*; the Fair Credit Reporting Act, 15 U.S.C. §§ 1681 *et seq.*, and the Racketeering Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961 *et seq.* pursuant to Federal Rule of Civil Procedure 12(b) for failure to state a claim for which relief could be granted. This motion is based upon the allegations contained in Plaintiff's Complaint, the

supporting Brief of Defendant filed with this Motion and all other pleadings of record.

WHEREFORE, Defendant Wells Fargo Bank, N.A. respectfully requests that the Court grant this Motion, dismiss Plaintiff's claims as laid out above and in the supporting Brief, and tax the Plaintiff with all costs of this action.

Respectfully submitted this 26th day of October 2009.

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FONT CERTIFICATION

The undersigned counsel for Plaintiff hereby certifies that the within and foregoing was prepared using Times New Roman 14-point font in accordance with Local Rule 5.1.

This 26th day of October, 2009.

/s/ Natalie C. Suhl
Natalie C. Suhl
Georgia Bar No. 774164

CERTIFICATE OF SERVICE

This is to certify that on October 26, 2009 the within **Defendant's Motion to Dismiss** has been served via the CM/ECF Notification System and by U.S. Mail upon:

Sanjay Patel, Esq.
3145 Repps Miller Road
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**BAKER, DONELSON, BEARMAN,
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/s/ Natalie C. Suhl
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